

1 JUDGE STEINBERG: Okay. Yeah, they did hire --
2 right. The pending question is the, the -- well, the question
3 that you asked before you showed the witness Exhibit 63 was
4 basically wasn't the entire applicant pool black. I'll allow
5 the witness to go through Exhibit 63 to refresh his
6 recollection. And assuming -- I don't know that this is true.
7 I don't know that it's been established that this is the
8 entire applicant pool. But if, if he knows whether all of
9 these people are African American or whether some of them
10 aren't. And I think let's leave it, let's leave it at that
11 for now.

12 MR. HONIG: It's --

13 JUDGE STEINBERG: And then you'll get the answer,
14 and then you can ask the next question.

15 MS. SCHMELTZER: And Your Honor, I don't know if
16 it's the entire applicant pool --

17 MR. HONIG: It's everyone that we had documents
18 produced as part of the applicant pool. There was one of
19 those forms associated in fact with each such person. With
20 each such person.

21 JUDGE STEINBERG: Okay. And if, and if -- let me
22 just ask the witness first why don't you review these to see
23 if you're familiar with these names. You may know nothing
24 about these people. You may know about some of them but not
25 all of them. I mean we're -- this is all very iffy.

1 MS. SCHMELTZER: I can't testify one way or the
2 other what race these people were from, from this --

3 JUDGE STEINBERG: Okay.

4 WITNESS: -- from these pages.

5 JUDGE STEINBERG: He doesn't know what, what races
6 they were.

7 MR. HONIG: Did you interview any of these people?

8 WITNESS: I interviewed, I interviewed the final
9 applicants for these jobs. Timothy Meeks is in here. He's
10 still an employee. I think Bridget Williams was the
11 receptionist we hired. They were both African Americans. But
12 I did not interview all the people, no.

13 MR. HONIG: Now on page -- keep the exhibit before
14 you if you would. On page 2, paragraph 4, there is the
15 statement, "Moreover, no one used employment qualifications
16 for certain positions as racially discriminatory barriers to
17 employment at the station." Now if you look at those forms
18 that I've just given you and which are contained within NAACP
19 Exhibit 63, would you read -- these, these are essentially the
20 same items in each one. Not the scores, but what were those
21 items?

22 MS. SCHMELTZER: Objection, Your Honor. There is no
23 basis for this examination. His statement is that employment
24 qualifications were not racially discriminatory barriers. We
25 hired minorities for the two positions in question here. I'm

1 not even sure whether these, this, these are employment
2 qualifications. There's just no basis for this examination.

3 MR. HONIG: Your Honor, if we're going to go into
4 the, the merits of this, I'd like to do it with the witness
5 absent.

6 JUDGE STEINBERG: Well, you haven't established any
7 nexus between these documents, the 63 and the witness?

8 MR. HONIG: Well --

9 JUDGE STEINBERG: You haven't established any of
10 those any -- that even what these are.

11 MR. HONIG: I can, I can lay the foundation if you'd
12 like. And then if I can do that before we get to this
13 objection.

14 JUDGE STEINBERG: Why don't you see if -- yeah, lay
15 the foundation then we'll ask --

16 MR. HONIG: Yeah.

17 BY MR. HONIG:

18 Q Have you ever seen these forms before?

19 A Yes.

20 Q Was -- this, this was a form that was --

21 A Well, ask him what it was used for?

22 Q What was, what was it used for?

23 A Whenever the person or people were interviewed the,
24 the person that did these interviews made notes corresponding
25 to, to these areas of these attributes and made a judgment

1 call on what she felt their, how they rated out.

2 Q Did you design that form?

3 A No, I did not.

4 Q Was it done under your direction?

5 A No, it was not.

6 Q You didn't instruct anyone to design this form.

7 A That's correct.

8 Q But you were aware of the form.

9 A I was aware of the form at the final interview,
10 yeah.

11 Q Okay. Now whose writing is that?

12 A Angela Burger.

13 Q Who is she?

14 MS. SCHMELTZER: Objection, Your Honor. We're going
15 far afield. Mr. Honig couldn't go into this in discovery.
16 This is not germane to the issue of --

17 MR. HONIG: I was just asking who --

18 JUDGE STEINBERG: Well, we've got whose writing it
19 is. Now who is she? That's, that's where we are. I think
20 that's fair. Who is Angela -- is it Burger or Barger?

21 WITNESS: Burger. B-U-R-G-E-R. She was assistant
22 director of development at the radio station who helped manage
23 this job, these job hires.

24 BY MR. HONIG:

25 Q So you would have seen these forms when they came to

1 | you with the final applicant that you reviewed in the proof.

2 | A As best as I recall, I believe I did see them, yes,
3 | these, these documents for, for the applicant.

4 | Q Now you'll notice the dates of those documents are
5 | all dates in 1990. Did you ever see such a form before 1990?

6 | A Yeah, I've seen other -- well, I, I presume you mean
7 | at the radio station.

8 | Q At the radio station, that's right.

9 | A No.

10 | MR. HONIG: At this time, Your Honor, I'd like to
11 | move NAACP Exhibit 63 into evidence.

12 | MS. SCHMELTZER: I object, Your Honor. There's been
13 | no nexus to show that these are racially discriminatory
14 | barriers. It's not relevant to the issues in this case. It's
15 | totally irrelevant.

16 | MR. HONIG: That's proper argument for findings.
17 | But I think he was testing --

18 | MS. SCHMELTZER: I don't know what findings we would
19 | make on these documents.

20 | JUDGE STEINBERG: Okay. You've, you've got your
21 | objection. Mr. Zauner.

22 | MR. ZAUNER: Yeah. Your Honor, I don't see the
23 | relevance of the documents. Perhaps we could get a statement
24 | of relevance.

25 | JUDGE STEINBERG: For what, what purpose are they

1 going to be used? I mean let me put it this way. I'm
2 inclined to receive them for the sole purpose of having them
3 in the record so that if anybody reads the record they know
4 what the heck the witness, knew what Ms. Zika was talking
5 about and what Mr. Stortz was talking about. Beyond that, you
6 haven't made a showing as to why, as to whatever use can be
7 made of them.

8 MR. HONIG: Well, the use that can be made of them
9 is that the witness has testified that he's apparently unaware
10 of their use before 1990. They were used for these two hires
11 for which most of the applicants were, were black. And the
12 other --

13 JUDGE STEINBERG: So, so I mean will, will the
14 Church stipulate that no forms of this nature were used prior
15 to January 1990 when interviewing job applicants? That should
16 satisfy that. That can -- I mean we've got the witness's
17 testimony. Of course, you can use that.

18 MR. HONIG: Um-hum.

19 JUDGE STEINBERG: But what are you going to use?
20 You going to, you going to write a finding that Ann was --
21 somebody named Ann Atkins applied January 22nd, 1990, and
22 Angela Burger interviewed her which is hearsay, but that's
23 okay. Angela Burger interviewed her and prepared her form and
24 gave her an 8 for being punctual, a 7 for having a pleasant
25 voice, a 7 for having a good appearance, etc., etc.?

1 MS. SCHMELTZER: There is simply no basis to receive
2 these. I think they should be stricken. They go forward with
3 the record as an offer of proof as a rejected exhibit.

4 JUDGE STEINBERG: Okay. No, I -- Mr. -- the ball is
5 in Mr. Honig's court to tell me -- I mean I'm -- I will
6 receive them for the purpose of having them in the record so
7 that the witness's answers -- somebody can look at them so
8 that the witness's answers make sense.

9 MR. HONIG: They're there, they're there to show
10 that, that this was a test that was given for positions for
11 which it was, it was -- that were designed for the hiring of,
12 of blacks. It was not a test that was ever used previously
13 when there weren't positions where they had decided to hire
14 out of a virtually all minority pool. And thus that it was,
15 it was inherently discriminatory per se.

16 MS. SCHMELTZER: What was --

17 JUDGE STEINBERG: So now you're arguing that --

18 MR. HONIG: Absolutely.

19 JUDGE STEINBERG: -- I mean in essence you're
20 arguing that the station made an effort to hire a minority.

21 WITNESS: Yes.

22 JUDGE STEINBERG: Did hire a minority. Assume the
23 applicant pool was all minority.

24 MR. HONIG: Yes.

25 JUDGE STEINBERG: And they hired a minority. And

1 your argument is that the, that the station is not qualified,
2 because they discriminated against non-minorities in filling
3 these two positions.

4 MR. HONIG: No. No, that's not correct.

5 JUDGE STEINBERG: Well, that's what you seem to be
6 saying.

7 MR. HONIG: The -- no, the argument I'm making is
8 this.

9 JUDGE STEINBERG: It's like, it's like they're
10 darned if they do and darned if they don't.

11 MR. HONIG: No, no, no. That's not the argument I'm
12 making.

13 JUDGE STEINBERG: Notice I cleaned up my language.

14 MR. HONIG: The, the witness, the witness testified
15 earlier that for example sometimes there were positions that
16 had to be filled in a hurry. And then they, they didn't
17 necessarily -- they couldn't necessarily hire the people that
18 were most, that they would most have liked to have hired
19 through a massive search. The way that happens is you go in
20 your files and you see who's there. You know, you call people
21 you know. Well, what this did was create a two-tiered pool of
22 potential employees from the ones who were rejected. And
23 those people who were black and because they were hired in
24 this -- they had to hire a black person right after the
25 petition to deny, were then in the pool with these

1 stigmatizing documents but --

2 JUDGE STEINBERG: How would they -- tell me how
3 these documents were stigmatizing? What is stigmatizing about
4 page 1? Ann, Ann Atkins. Motivated she gets a 7. How was
5 she stigmatized by getting a 7 for being motivated and a 9 for
6 a good guest greeter?

7 MR. HONIG: Excellent question. The reason is --

8 JUDGE STEINBERG: Thank you.

9 MR. HONIG: -- the reason is that -- and, and it is
10 that Ann Atkins then goes into a file of people who applied.
11 And --

12 JUDGE STEINBERG: Do you know she went into a file
13 of people who applied?

14 MR. HONIG: I'm going to -- I can, I can button that
15 up. But here is the --

16 JUDGE STEINBERG: Well --

17 MR. HONIG: -- here is the point. Ann Atkins --

18 MR. GOTTFRIED: Your Honor, this is the last day of
19 the license term. Anything that was -- any use made of these
20 after January 31st, 1990 is beyond the scope --

21 JUDGE STEINBERG: Well, there's also an argument
22 that can be made that the NAACP's petition to enlarge --

23 MR. HONIG: Petition to deny.

24 JUDGE STEINBERG: -- petition to deny had already
25 been filed. That any, any activity that they undertook to

1 hire minorities was therefore, you know, the old searchlight
2 doctrine and shouldn't be counted anyway.

3 MR. HONIG: Yeah. But --

4 JUDGE STEINBERG: I'll tell you, I'm going to cut
5 the argument off here. Exhibit 63 is received for the limited
6 purpose of explaining Ms. Zika's testimony when she was asked
7 questions about it and Mr. Stortz's when he was asked
8 questions about it. I think -- Mrs. Schmeltzer, are you
9 willing to stipulate that no similar forms were used prior to
10 January 1990 for interview?

11 (Whereupon, the document referred to
12 as NAACP Exhibit No. 63 was received
13 into evidence.)

14 MS. SCHMELTZER: I'm not in a position, I'm not in a
15 position to stipulate, Your Honor.

16 JUDGE STEINBERG: Okay. Maybe you could work on
17 that. But we've got the witness's testimony that he is not
18 aware of any such forms being used. That you can use. That's
19 testimony. But I mean I, I have very great difficulty
20 understanding your argument. Apparently had the station had
21 an announcer vacancy or a salesperson vacancy during January
22 '90 and had restricted the, the looking to minorities and
23 hired a minority, that would have been okay, because that's a
24 little different level?

25 MR. HONIG: No, let me help you with it, Judge.

1 There's nothing inherently wrong in asking a person what's
2 your personality, what's your deportment or whatever else
3 there is on there. The point is these were questions that the
4 station didn't see fit to ask anyone until they, until they
5 decided that let's hire blacks.

6 JUDGE STEINBERG: Okay. No, no, no. No, the --
7 that's not what the --

8 MR. HONIG: It stigmatizes these blacks --

9 JUDGE STEINBERG: That -- how does it stigmatize
10 them by --

11 MR. HONIG: Because they're sitting --

12 JUDGE STEINBERG: This -- wait a minute. Wait a
13 minute. Wait.

14 MR. HONIG: Sure.

15 JUDGE STEINBERG: Let me, let me -- don't interrupt.
16 Mr. Stortz --

17 MR. HONIG: I'm sorry.

18 JUDGE STEINBERG: -- before January 1990, were
19 people interviewed for jobs?

20 WITNESS: Yes.

21 JUDGE STEINBERG: But forms were -- but to your
22 knowledge, forms were not, interview forms were not done.

23 WITNESS: Such as this.

24 JUDGE STEINBERG: Such as this. So people -- I mean
25 people weren't being interviewed because they were black.

1 They were being interviewed because they applied for jobs.
2 People who applied for jobs before January were also
3 interviewed but the, the bookkeeping was different.

4 MR. HONIG: Well --

5 JUDGE STEINBERG: Is that, is that correct, Mr.
6 Stortz? To your knowledge. If you don't know, you don't
7 know. Say you don't know. There's nothing, nothing
8 embarrassing about not knowing. Lot of stuff I don't know.

9 WITNESS: To my knowledge, that would be true.

10 JUDGE STEINBERG: Okay.

11 MR. HONIG: Well --

12 JUDGE STEINBERG: Okay. I'm going to, I'm --
13 okay --

14 MR. HONIG: From a, from a evidentiary --

15 JUDGE STEINBERG: -- I'm, I'm happy now.

16 MR. HONIG: Yeah.

17 JUDGE STEINBERG: Let's, let's end the argument
18 here. You can educate me in your findings.

19 MR. HONIG: Okay.

20 JUDGE STEINBERG: And then I can be uneducated in
21 the reply.

22 MR. HONIG: Actually, I want to do 64, and then that
23 might be a logical time to break. Sixty-four is quick.

24 (Asides.)

25 MR. HONIG: I'm placing before the witness NAACP

1 Exhibit 64 which is a one-page document which I think we're
2 referring to as --

3 JUDGE STEINBERG: It doesn't matter.

4 MR. HONIG: -- processing charge for user fee for
5 criminal records check, Missouri State Highway Patrol. Have
6 you seen this before? Thank you.

7 WITNESS: I can't specifically say that I saw this
8 exact document. But in discovery I saw attached to some
9 job -- or resumes some, a couple of forms that indicated like
10 this police check thing. So I would presume this would be one
11 of them.

12 JUDGE STEINBERG: Yeah, but you don't have any
13 specific recollection of seeing this document.

14 WITNESS: This particular --

15 JUDGE STEINBERG: Correct.

16 WITNESS: -- document in front of me, no.

17 MR. HONIG: Did the station do police checks
18 routinely?

19 MS. SCHMELTZER: Objection. Irrelevant.

20 MR. ZAUNER: I didn't hear the question, Your Honor.

21 JUDGE STEINBERG: Okay. The question was did the
22 police -- did the station do police checks routinely.

23 MR. HONIG: The, the reason -- and I'm -- I'll --

24 JUDGE STEINBERG: And then there was an objection.

25 Mr. Zauner, do you want to join or --

1 MR. ZAUNER: Yeah. We would join the objection. We
2 point out that there's no foundation to, for the question
3 which assumes that the station did such checks routinely.

4 JUDGE STEINBERG: No, he asked if they did them
5 routinely.

6 MR. HONIG: Let me withdraw the question and do it
7 in a, in an easier way.

8 JUDGE STEINBERG: Okay. Question is withdrawn.

9 MR. HONIG: Let me first assert that in going
10 through the documents produced to us, that was the only such
11 form I found. Are you aware of any other such forms?

12 MS. SCHMELTZER: Objection. This could have been
13 asked in discovery.

14 JUDGE STEINBERG: Overruled. He -- we have the
15 witness here. He, he looked through the stuff. He thought he
16 saw things that looked like this. Do you remember more than
17 one or -- I mean --

18 WITNESS: I, I don't know. If, if we had them, you
19 got them.

20 MR. HONIG: That's, that's good enough for me.
21 Okay. I have no more questions about this exhibit, and I move
22 it into evidence.

23 MS. SCHMELTZER: We object. There's, there's no
24 basis for receiving this, this exhibit into evidence. It's
25 irrelevant to the issues. There's been no foundation laid for

1 its admission.

2 MR. ZAUNER: We join in that, Your Honor.

3 JUDGE STEINBERG: Okay. I'm, I'm going to receive
4 this solely for the purpose of having in the record what the
5 witness was asked a question about. That -- because if it's,
6 if it's not there, then legitimately people can't look at it.

7 (Whereupon, the document referred to
8 as NAACP Exhibit No. 64 was received
9 into evidence.)

10 MS. SCHMELTZER: That's what an offer of proof is
11 when it goes --

12 JUDGE STEINBERG: But --

13 MS. SCHMELTZER: -- forward as a rejected --

14 JUDGE STEINBERG: That's a little different I think.

15 MS. SCHMELTZER: I --

16 MR. HONIG: This is a little, this is --

17 MS. SCHMELTZER: -- I want to make certain that --

18 JUDGE STEINBERG: Well --

19 MS. SCHMELTZER: -- Mr. Honig is not going to make
20 proposed findings of fact based on Exhibit 63 and 64.

21 JUDGE STEINBERG: He can do what he wishes and you
22 can reply. I mean I think I -- I think the rulings -- when,
23 when you, when you read the record you'll see what the rulings
24 were. And you know, I certainly don't expect findings of fact
25 saying that, that Viola Porter applied on January 26, 1990 and

1 was given the following ratings. But I think we may get
2 findings saying that in January 1990 the station was looking
3 for minority employees and hired a minority and used an
4 interview form. And then whatever conclusions you want to
5 draw from that you can draw. But, but it's used to in your
6 opinion improperly in the findings you can reply.

7 MS. SCHMELTZER: Is this a good time to break for
8 lunch?

9 JUDGE STEINBERG: Yup.

10 MR. HONIG: Yup.

11 JUDGE STEINBERG: Do you have much more?

12 MR. HONIG: I'm -- I don't know. It's hard to tell.
13 Much of what I want to do is to -- I -- is to in effect
14 identify and, and many of, of our exhibits 21 through 62 along
15 the lines of, you know, have you seen this, is it a genuine
16 document and so forth and then move it. I'm not going to have
17 that many questions about them. But I do want to be sure that
18 their genuineness has been established through, through the,
19 the witness before I move them. Most of them I think are of
20 the same type as many that the Bureau has had and ought not to
21 be --

22 JUDGE STEINBERG: Let, let me make a suggestion that
23 might speed things along. Mrs. Schmeltzer is here. Mr.
24 Stortz is here. Mr. Zauner is here. Tell them what documents
25 you want to introduce through Mr. Stortz. He doesn't have to

1 say it on the record. Have him look at it, and you can ask
2 him is this a real, is this a genuine document.

3 And then you come back on the record and you say
4 during lunch break we did this. Mr. Stortz vouched for the
5 genuineness of Exhibits A, B, C, D, E, F and G. Isn't that
6 correct, Mr. Stortz? He'll say yeah. I move these exhibits.
7 And Mrs. Schmeltzer can say no objection.

8 MR. HONIG: Okay.

9 JUDGE STEINBERG: And that way we don't have to
10 clutter up courtroom time and --

11 MR. HONIG: In the next 10 minutes or so, why don't
12 I just write out a list of --

13 JUDGE STEINBERG: That's fine.

14 MR. HONIG: -- what I would have --

15 JUDGE STEINBERG: That's right. And then you write
16 out the list. And then maybe give it to Mrs. Schmeltzer to
17 look at. And then you can huddle up beforehand.

18 MR. HONIG: Yeah.

19 JUDGE STEINBERG: With Mr. Stortz --

20 MR. HONIG: There may be a few others that I'll have
21 questions about. And I won't include those --

22 JUDGE STEINBERG: No, that's, that's, no -- fine.
23 You know, you -- but I'm saying if, if all you want to do is
24 have him vouch for the documents, it doesn't have to be on the
25 record. We -- you can stipulate that -- I mean you're still

1 under oath. And I'm sure you're going to answer him
2 truthfully. You're not going to vouch for a document that's
3 phony.

4 Okay, 2 o'clock, we'll break until 2? Is that
5 agreeable?

6 MS. SCHMELTZER: Yes, sir.

7 MR. ZAUNER: Yes, Your Honor.

8 JUDGE STEINBERG: Okay. We'll be recessed until 2.

9 (Whereupon, a recess was taken for lunch at 12:50
10 p.m. to reconvene at 2:00 p.m.)
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1 A F T E R N O O N S E S S I O N

2 JUDGE STEINBERG: We're back on the record.

3 MR. HONIG: Okay. I, I want to return to the
4 question of these two January 1990 job openings about which
5 you testified before we got to these declarations. I mean
6 these, these -- before we got to Exhibits 63 and 64. At the
7 outset, Judge, I'd like to withdraw NAACP Exhibit 64. It's
8 been pointed out to me that, that there's a gap in
9 authentication. It's not curable, and it shouldn't be in the
10 record, so I'm withdrawing it.

11 JUDGE STEINBERG: Okay. So 64 is withdrawn.

12 (Whereupon, the document previously
13 identified as NAACP Exhibit No. 64
14 was withdrawn as evidence.)

15 (Asides.)

16 JUDGE STEINBERG: But it -- I think it still
17 ought -- how does it -- if you, if you physically withdraw
18 something it's not, it's removed from the possession of the
19 reporter. And then how is a reviewing body going to know
20 what --

21 MR. HONIG: Well, let, let me do it this way then.
22 Could I ask you to reverse --

23 JUDGE STEINBERG: You don't need to --

24 MR. HONIG: -- your ruling admitting it into
25 evidence and reject it?

1 JUDGE STEINBERG: Sure. Why don't we do -- we'll
2 reject it.

3 (Whereupon, the document referred to
4 as NAACP Exhibit No. 64 was rejected
5 as evidence.)

6 MR. HONIG: I've never asked a judge to reject my
7 own, my own exhibit. Okay.

8 JUDGE STEINBERG: Okay. Let me just announce that
9 basically Exhibit 64 is being rejected at counsel for NAACP's
10 request in light of my, my hang-up about withdrawing it and
11 not having it there for somebody to look at. Now it's
12 rejected and somebody -- I don't think, think it's going to
13 matter.

14 MR. HONIG: No.

15 JUDGE STEINBERG: The case is not going to turn on,
16 turn on Exhibit 64. Okay. Thank you.

17 MR. HONIG: Okay.

18 MR. ZAUNER: Your Honor, perhaps the record
19 should -- just because a reviewing official may look at that
20 document, perhaps there ought to be a statement as, as to what
21 it is that's requires --

22 MR. HONIG: Want me to -- sure.

23 MR. ZAUNER: -- on counsel's mind that, that it be
24 withdrawn.

25 MR. HONIG: Yeah --

1 JUDGE STEINBERG: I think he just said --

2 MR. ZAUNER: No, he didn't. He said --

3 MR. HONIG: I didn't -- yeah. Let me be more
4 specific. It's been pointed out to me that the document was
5 found in station files but that it's, it's unclear whether it
6 was created at the station's request or was presented by the
7 applicant. And there's something written on it that suggests
8 that it may be more likely that it was brought to the station
9 by the applicant on his own motion. And thus couldn't be
10 attributed to, to an affirmative act of the station itself.

11 JUDGE STEINBERG: Okay.

12 MS. SCHMELTZER: And that's consistent with the
13 witness's testimony, Your Honor. He thought it might have
14 been attached to a resume or application.

15 MR. HONIG: Yeah. That's right.

16 JUDGE STEINBERG: Okay.

17 MR. HONIG: Okay.

18 JUDGE STEINBERG: Thanks.

19 BY MR. HONIG:

20 Q Okay. Now -- you ready?

21 A Yes.

22 Q Okay. Now I'd like to direct your attention to
23 those two openings in January 1990 for a receptionist and a
24 janitor. What sources did you go to to recruit applicants for
25 those openings?

1 A We used several St. Louis area newspapers that were
2 targeted toward the African American community.

3 Q The Sentinel, the, the Argus and the American?

4 A American.

5 Q Okay. Any other sources?

6 A I'm sure we posted the positions at the
7 International Center of the Lutheran Church and within the
8 building. Oh, yes. The Lutheran Employment Project was used
9 and the Lutheran Outreach Ministry was used.

10 Q Could you describe the Lutheran Employment Project?

11 A It's --

12 Q And the Lutheran Outreach Ministry?

13 A The Lutheran Employment Project is a geared toward
14 minority social firm to gain employment for I would think
15 predominantly minorities.

16 Q Well, when was that founded, do you know
17 approximately?

18 A No, I don't know when it was founded.

19 Q And the other organization that you mentioned, the
20 Lutheran --

21 A Lutheran Outreach.

22 Q -- Outreach?

23 MS. SCHMELTZER: Your Honor, Your Honor, I'm going
24 to object to questioning on the Lutheran Outreach Ministry.
25 This is the Otis Woodard matter. And there's nothing in Mr.

1 Stortz's direct case testimony about Reverend Woodard or
2 whatever you want to call him --

3 MR. HONIG: I'm not going into Reverend Woodard with
4 this.

5 JUDGE STEINBERG: I, I think what Mr. Honig is
6 inquiring about are the, the procedures utilized in hiring
7 the, the two individuals in January 1990 and these, and these,
8 these two organizations were mentioned, Lutheran Employment
9 Project, Lutheran Outreach Ministry. And I think he, Mr.
10 Honig is just trying to find out for the record what they are
11 to the extent the witness knows. Is that correct?

12 MR. HONIG: That's right.

13 JUDGE STEINBERG: So it's overruled.

14 WITNESS: What was the question?

15 BY MR. HONIG:

16 Q Okay. The, the question is could you describe the
17 Lutheran Outreach Ministry?

18 A It's a, it's a social ministry I would call it
19 designed to aid minorities in Mr. Woodard's neighborhood
20 primarily. I know they take care of throughout the course of
21 history that I've been familiar with it with abused women,
22 hungry people and, and clothing drives.

23 Q Now other than those two openings, can you recall an
24 occasion during the license term when the station notified
25 most or all of those five sources that you've just identified,

1 the three black newspapers, the Lutheran Employment Project
2 and the Lutheran Outreach Ministry?

3 A During the license period?

4 Q Yeah.

5 A I know the Lutheran Employment Project was contacted
6 prior to that. The other four I don't believe so.

7 Q Now from your recollection, were most of the
8 applicants for those two positions black?

9 MS. SCHMELTZER: That's been asked and answered
10 previously.

11 MR. HONIG: Yeah. We -- this came up during -- we,
12 we were -- we could not among us recall the answer. So I know
13 it's been asked and answered. But I wanted to make sure that
14 we, we had the answer.

15 JUDGE STEINBERG: Okay. Is this, is this just for
16 the purpose of restating the answer?

17 MR. HONIG: It was asked, it was asked before and,
18 and we forgot the answer.

19 JUDGE STEINBERG: Okay. The question were most of
20 the people who applied for the January 1990 openings African
21 American or minority? What, what was your word?

22 MR. HONIG: African American.

23 JUDGE STEINBERG: Do you know?

24 WITNESS: Many were. I, I -- most I don't know.

25 MR. HONIG: Is it safe to say the majority were?

1 MS. SCHMELTZER: He's already answered the question.

2 JUDGE STEINBERG: Well, he's trying to narrow it
3 down. That's okay.

4 WITNESS: I think the majority were, yes.

5 MR. HONIG: Okay. Now was the -- looking at the
6 method of recruitment for those two positions, did you recruit
7 that way because you felt that it was especially important to
8 undertake to hire a minority for those vacancies?

9 MS. SCHMELTZER: I'm going to object to the
10 question. First of all, the question is incredibly vague.
11 Did you recruit that way? I don't know what that means.
12 Secondly --

13 MR. HONIG: Using those --

14 MS. SCHMELTZER: -- secondly --

15 MR. HONIG: Sorry.

16 MS. SCHMELTZER: -- I object because this is a
17 matter that Mr. Honig explored fully this morning, and I still
18 maintain that it's totally irrelevant. And I think he's
19 wasting everyone's time.

20 JUDGE STEINBERG: Rephrase it and instead of
21 suggesting an answer, ask a question. Why did you do it this
22 way?

23 MR. HONIG: All right. Well, I'll ask it that --

24 JUDGE STEINBERG: You know, because what -- you're
25 suggesting an answer. And that -- which you're allowed to do